

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

DORISE ROBINSON,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No.:
	)	
NORTH AMERICAN CENTRAL SCHOOL BUS,	)	
D/B/A MISSOURI CENTRAL SCHOOL BUS	)	
and ALBERT CARMEL (IN HIS OFFICIAL	)	
CAPACITY),	)	
	)	
Defendants,	)	

**NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §§ 1331, 1441(a), and 1446, Defendants NORTH AMERICAN CENTRAL SCHOOL BUS D/B/A MISSOURI CENTRAL SCHOOL BUS (individually “Missouri Central”) and ALBERT CARMEL (individually “Carmel”) (jointly “Defendants”) hereby file their Notice of Removal of *Dorise Robinson v. North American Central School Bus d/b/a Missouri Central School Bus, and Albert Carmel*, Case No. 1622-CC01235 (the “State Court Suit”), pending in the Twenty Second Judicial Circuit Court, City of St. Louis, Missouri (“State Court”) to the United States District Court for the Eastern District of Missouri. Defendants remove the State Court Suit on the basis of federal question jurisdiction and, in support hereof, state as follows:

**STATEMENT OF THE CASE**

1. On May 9, 2016, Plaintiff Dorise Robinson (“Plaintiff”) filed the Petition (the “Petition”) against Defendants for alleged violations of the Missouri Human Rights Act and the common law tort claims of negligent supervision and negligent training by failing to prevent Missouri Central’s employees from engaging in discriminatory practices. Defendants were

served with a copy of the Petition on or about June 2, 2016. A true and accurate copy of the Summons and Petition are attached hereto as Exhibit A.

2. On July 5, 2016, Defendants timely filed a Motion to Dismiss all counts in Plaintiff's Petition. A true and accurate copy of the Motion to Dismiss is attached hereto as Exhibit B.

3. On September 12, 2016, two days prior to the scheduled hearing on the Motion to Dismiss, Plaintiff filed a Motion for Leave to File First Amended Petition ("Motion for Leave") and Plaintiff's First Amended Complaint[sic] ("Amended Petition"). A true and accurate copy of the Amended Petition is attached hereto as Exhibit C.

4. On September 14, 2016, Defendants consented to Plaintiff's Motion for Leave "without prejudice to any arguments Defendants may have with respect to sufficiency of the proposed Amended Petition." A true and accurate copy of the September 14, 2016 Order is attached hereto as Exhibit D.

5. In the Amended Petition, Plaintiff withdrew her two common law tort claims, and revised her claims to gender discrimination and retaliation. Compare Exhibit A with Exhibit C. Plaintiff is also seeking an award for damages under 42 U.S.C. Section 1981 and Section 706(k) of Title VII, 42 U.S.C. Section 2000(e)-5(k). Exhibit C at ¶¶35 and 51.

### **JURISDICTIONAL STATEMENT**

6. This Court has jurisdiction over this matter under 28 U.S.C. § 1331 because Plaintiff's claims in the Amended Petition arise under federal law. Exhibit C.

7. Plaintiff's claims arise under federal law because Plaintiff alleges that Missouri Central "was an employer, joint employer, or prospective employer as defined by 42 U.S.C.

Section 2000e....” (“Title VII”), and seeks an award for damages under 42 U.S.C. § 1981 and Title VII. Exhibit C, ¶¶ 10, 35, and 51.

8. Although Plaintiff references the Missouri Human Rights Act (the “Act”), her claims are not viable. This is true because Plaintiff has not alleged that she satisfied the administrative prerequisites necessary to pursue her claims under the Act, including failing to allege that she was issued a right to sue letter from the Missouri Commission on Human Rights. Mo. Ann. Stat. § 213.111.1.

9. As a result, federal law claims under Title VII and 42 U.S.C. § 1981 are the only viable claims in the Amended Petition.

#### **PROCEDURAL STATEMENT**

10. Removal is timely pursuant to 28 U.S.C. § 1446(b)(3) because: (1) Plaintiff’s initial pleading, the Petition, was not removable, and (2) this Notice is filed within thirty days of Defendants’ receipt of Plaintiff’s Amended Petition, which was the first filing that Defendants ascertained that the State Court Suit became removable.

11. Pursuant to 28 U.S.C. § 1446(a), a true and correct copy of Plaintiff’s Amended Petition served on Defendants as of the date of this Notice is attached hereto as Exhibit C.

12. Pursuant to 28 U.S.C. § 1441(a), removal to the United States District Court for the Eastern Division of Missouri is proper because the District embraces the State Court, the place where this action is currently pending. See 28 U.S.C. § 105(a)(1).

13. Pursuant to 28 U.S.C. § 1446(d), Defendants will promptly file a copy of this Notice of Removal in the State Court, and give written notice of the removal of this action to counsel for plaintiff.

14. By removing the action to this Court, Defendants do not waive any defenses, objections or motions available to it under state or federal law. Defendants expressly reserve the right to move for dismissal of Plaintiff's claims pursuant to Rule 12 of the Federal Rules of Civil Procedure.

15. Removal is proper under 28 U.S.C. § 1446(b)(2)(A) because both Defendants have joined in this Notice of Removal.

16. Pursuant to Local Rule 2.03, a copy of the file from the State Court for this case currently pending before the Honorable Joan Moriarty as of October 5, 2016 as well as a copy of all process and pleadings served on Defendants are attached hereto as Group Exhibit E.

17. A Notice of Filing Notice of Removal and a copy of this Notice of Removal are being filed in the State Court.

18. Written notice of the filing of this Notice of Removal will be given to Plaintiff's counsel as required by law.

WHEREFORE, Defendants give notice that the above action initiated in the Circuit Court of St. Louis City, Missouri is hereby removed to the United States District Court for the Eastern District of Missouri, Eastern Division, for the reasons stated above.

Respectfully submitted,

ARMSTRONG TEASDALE LLP

By: Jeremy M. Brenner  
Jeremy M. Brenner #63727MO  
7700 Forsyth Blvd., Suite 1800  
St. Louis, Missouri 63105  
314.621.5070  
314.621.5065 (Facsimile)  
jbrenner@armstrongteasdale.com  
ATTORNEYS FOR DEFENDANTS

**CERTIFICATE OF SERVICE**

I hereby certify that on October 5, 2016, the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system and mailed via U.S. Mail, postage prepaid, upon the following:

James C. Robinson  
Attorney at Law  
Post Office Box 771812  
St. Louis, Missouri 63177-1812

Jeremy M. Brenner